



# Nebraska's Natural Resources Districts

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May 29, 2015

TO: NARD Board of Directors, NRD Managers and Conservation Partners  
FROM: Dean E. Edson, NARD Executive Director  
RE: May 29, 2015 NARD Sine Die Update

The Nebraska Legislature adjourned Sine Die May 29, 2015, on day 89 of a 90-day session. The next 60-day session is scheduled to begin January 6, 2016. Regular sessions generally last 90 legislative days in odd-numbered years and 60 legislative days in even-numbered years. This document contains a summary of the outcome of all 2015 Legislative Bills of interest to natural resources districts.

The first section lists bills that were passed by the Legislature and approved by Governor Ricketts (Pages 4 -15). The second section lists bills that have been indefinitely postponed or withdrawn (Page 16). The third section lists bills that will be carried over for the next session (Pages 16-29).

The fourth section includes Interim Study Resolutions that were introduced in 2015 (Page 30). A spreadsheet is included in the back of the document for a quick reference to all bills of interest to natural resources districts.

Most bills passed and approved by the governor become law three calendar months after the Legislature adjourns unless they have an emergency clause or a specified operative date. The emergency clause is a provision that allows a bill or a portion of a bill to take effect immediately after the governor signs it or after the Legislature overrides a governor's veto.

At the end of the session, Senator Jeremy Nordquist announced he will be resigning his seat effective July 1, 2015 to take the position of Chief of Staff for Congressman Brad Ashford of Omaha, who represents the 2<sup>nd</sup> Congressional District in Nebraska. Nordquist was elected to serve the District 7 seat, which represents South Omaha and parts of the downtown area, in 2008 and re-elected in 2012. He would have been in-eligible to run for the seat in 2016 because of term limits. The resignation will create an open seat for Governor Ricketts to fill by appointment.

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## **Section One – Bills Passed by the Legislature and Approved by Governor Ricketts or veto overridden**

Most bills passed and approved by the Governor become law three calendar months after the Legislature adjourns unless they have an emergency clause or a specified operative date. The emergency clause is a provision that allows a bill or a portion of a bill to take effect immediately after the Governor signs it or after the Legislature overrides a governor's veto.

### **LB 9 – Revisor bill to repeal the Republican River Basin Water Sustainability Task Force that terminated June 30, 2012. Executive Committee. Krist.**

Governor Ricketts signed his first set of bills into law on February 17th, including LB 9. Senators gave final approval to LB 9 on February 12<sup>th</sup> by a 44-0-5 vote. Each year the first few bills introduced come from the Executive Committee of the Legislature to eliminate statutes that are no longer applicable. In this case, the bill eliminated the Republican River Basin Water Sustainability Task Force and related funding. The task force completed its duties on June 30, 2012.

### **LB 95 - Provide for operation and regulation of electric-powered bicycles. Smith.**

Governor Ricketts signed LB 95 into law on February 26<sup>th</sup>. On February 20th, Senators gave final approval to LB 95 on a 48-0-1 vote. The bill adds to the definition of bicycle to include a device with two or three wheels, fully operative pedals for propulsion by human power, and an electric motor with a capacity not exceeding seven hundred fifty watts which produces no more than one brake horsepower and is capable of propelling the bicycle at a maximum design speed of no more than twenty miles per hour on level ground.

The definition follows federal definitions and clarifies that such bicycles would not be required to be licensed and would also allow their use on local trails.

### **LB 106 -- Adopt the Livestock Operation Siting and Expansion Act and change powers of counties relating to zoning. Watermeier.**

Governor Ricketts signed LB 106 into law on May 27<sup>th</sup>. Senators gave final approval to LB 106 on May 21<sup>st</sup> by a 44-2-3 vote. The bill creates a matrix for county zoning boards to use for siting livestock operations.

On General File a compromise amendment, AM 1099, was adopted to the bill that creates a matrix system for counties to use for livestock zoning but makes it optional for counties to use it. All of the original provisions of the bill were eliminated and other pending amendments and motions were withdrawn. The amendment was adopted on a 39-0-10 vote.

The original bill required the Department of Agriculture to create a matrix for livestock zoning and require all counties to use it. The bill also proposed to create a Livestock Operation Siting Review Board. The review board would handle appeals from individuals that were denied a permit by the county. The mandatory use and review board were eliminated by the compromise amendment.

Under AM 1099, which became the bill, the Director of Agriculture would be required to appoint a committee of experts, not to exceed ten persons, to advise the Department of Agriculture on the development of the assessment matrix. The experts would include representation from county board members, county zoning administrators, livestock production agriculture, the University of Nebraska, and other experts as may be determined by the director.

In the development of the assessment matrix, the department shall:

- a) Consider matrices already developed by the counties and other states;
- b) Design the matrix to produce quantifiable results based on the scoring of objective criteria according to an established value scale.
- c) Assure the matrix is a practical tool for use by persons when completing permit applications and by county officials when scoring conditional use permit or special exception applications.
- d) Provide for definite point selections for all criteria included in the matrix and provide for a minimum threshold total score required to receive approval by county officials.

Criteria in the matrix which could include factors referencing the following:

- a) Size of operation;
- b) Type of operation;
- c) Whether the operation has received or is in the process of applying for a permit from the Department of Environmental Quality, if required by law;
- d) Environmental practices adopted by the operation operator which may exceed those required by the Department of Environmental Quality;
- e) Odor control practices;
- f) Consideration of proximity of a livestock operation to neighboring residences, public use areas, and critical public areas;
- g) Community support and communication with neighbors and other community members;
- h) Manure storage and land application sites and practices;
- i) Traffic;
- j) Economic impact to the community; and
- k) Landscape and aesthetic appearance.

In developing the matrix, the Department of Agriculture shall consider whether the proposed criteria are:

- a) Protective of public health or safety;
- b) Practical and workable;
- c) Cost effective;
- d) Objective;
- e) Based on available scientific information that has been subjected to peer review;
- f) Designed to promote the growth and viability of animal agriculture in this state;
- g) Designed to balance the economic viability of farm operations with protecting natural resources and other community interests; and
- h) Usable by county officials.

The bill, as amended, requires the committee to develop the matrix within a year after the bill becomes law, review the matrix annually and recommend to the department any changes needed.

The accompanying appropriations bill, LB 106A, was given final approval on a 46-2-1 vote. It provides \$24,000 from the General Fund for FY 2015-16 to the Department of Agriculture to aid in carrying out the provisions of the bill.

**LB 142e – Create the Aquatic Invasive Species Program and provide funding. Schilz.**

Governor Ricketts signed LB 142e into law on March 5<sup>th</sup>. On February 27<sup>th</sup>, Senators gave final approval to LB 142e on a 46-1-2 vote. The bill included the emergency clause and became law immediately following Governor Ricketts signature. The bill creates the Nebraska Aquatic Invasive Species Program to be used by Game and Parks to prevent and mitigate damage caused by aquatic invasive species such as the zebra mussel, silver carp, and other such species. These species have proven destructive to the ecosystems and usability of surface waters in surrounding states, and the program is designed to prevent their establishment in Nebraska.

The program will be funded by fees on boats as established by the NGPC. For resident boats, the fee would be not less than \$5 and not more than \$10. For out-of-state boats that are used in Nebraska waters, the annual fee would be not less than \$10 and not more than \$15. If the fees are set at the minimum level of \$5 for resident boats, and \$10 for non-resident boats plus a \$2.00 issuance fee, the estimated annual revenue is \$218,172. This is based on 34,176 resident boat registrations each year and 3,941 non-resident boats. If the fees are set at the maximum level the estimated annual revenue increases to \$408,757.

On Select File an amendment (AM 255) was adopted to modify another section of statute dealing with boat fees to clarify that such fees can be used for the Aquatic Invasive Species Program created under the bill. The accompanying appropriations bill, LB 142Ae, also approved by a 46-1-2 vote and signed by Governor Ricketts, appropriates \$330,000 from the State Game Fund for FY2015-16 and \$330,000 from the State Game Fund for FY2016-17 to the Game and Parks Commission to aid in carrying out the provisions of the bill. If the Commission sets the fees below the level necessary to generate \$330,000, the shortfall will be made up with matching grants and partnerships according to the Fiscal Note on the bill. Total expenditures for permanent and temporary salaries and per diems from funds appropriated are capped at \$157,191 for FY 2015-16 and FY 2016-17.

The Committee Amendment, AM 45, which was adopted on General File added language outlining the funds shall only be used for aquatic invasive species activities which may include monitoring and sampling waters of the state for aquatic invasive species, hiring personnel, purchasing equipment to inspect and decontaminate conveyances, providing additional enforcement, education, and research relating to aquatic invasive species, and conducting aquatic invasive species projects as needed.

#### **LB 164 – Provide a biennial budgeting option for natural resources districts. Friesen.**

Governor Ricketts signed LB 164 into law on March 18, 2015. The Legislature gave final approval to the bill on March 12<sup>th</sup> by a 44-0-5 vote. The legislation allows natural resources district the option to adopt either annual or biennial budgets. The legislation improves long term planning for natural resources districts to plan out two years and provide more certainty to taxpayers.

Currently there is a period of budget uncertainty between the beginning of the fiscal year on July 1 and the availability of the valuations on August 20 and the filing deadline of September 20 when the District is expending funds based upon a yet to be approved budget. This time period is important since it is the prime construction season. With a biennial budget, this uncertainty would be partially alleviated, at least in the second year of the biennial.

Further, projects undertaken by natural resources districts are often multi-year projects. Often the funding from grants and other sources are multi-year. A biennial budget would assist in project and fiscal planning.

Biennial budgeting is allowed for cities and villages. Prior to passage of the bill, natural resources districts could only adopt an annual budget.

#### **LB 206 -- Change the Erosion and Sediment Control Act. Schilz.**

Governor Ricketts signed LB 206 into law on May 26<sup>th</sup>. The Legislature gave final approval to LB 206 on May 20<sup>th</sup> by a 47-0-2 vote. The bill updates the Erosion and Sediment Control Act to address: 1) sheet and rill erosion and 2) ephemeral gully erosion. The intent of the bill is to address excess erosion in excess of the applicable soil-loss tolerance level which causes or contributes to an accumulation of sediment upon the lands of any other person to the detriment or damage of such other person.

Last year the same bill (LB 896) was advanced out of committee on an 8-0 vote but time ran out in the short session to advance the bill further. The NARD worked with the Nebraska Public Power District (NPPD) to address an issue that came up during the interim relating to irrigation diversions and facilities covered under

other laws. An amendment was offered at the hearing, which became the Committee Amendment AM 170, to address those concerns. The amendment exempts activities related to the operation, construction, or maintenance of industrial or commercial public power district or public power and irrigation district facilities or sites when such activity is conducted pursuant to state or federal law or is part of the operational plan for such facility or site. The NPPD supported the bill with the clarifying amendment. The Natural Resources Committee advanced the bill out again this year on an 8-0 vote. On General File, senators adopted AM 170 by a 35-0-14 vote.

The bill require the Natural Resources Commission, in cooperation with the Department of Environmental Quality, the USDA NRCS, and other appropriate state and federal agencies, to develop and coordinate a comprehensive state erosion and sediment control program designed to reduce soil erosion in this state to tolerable levels. The bill would also require the director and the commission to conduct at least four public hearings or meetings to receive information from interested persons in different parts of the state. Once the new program is developed, each NRD would then need to update their respective plans to the new requirements.

The updated program would follow the existing statutory reasonable and attainable requirements to include: 1) The soil-loss limits tolerance level for the various types of soils in the state; 2) State goals and a state strategy for reducing soil losses on all lands in the state to an amount no more than the applicable soil-loss tolerance level; 3) Guidelines for establishing priorities for implementation of the program at the state and local levels; 4) Types of assistance to be provided by the state to districts, cities, and counties in the implementation of the state and local erosion and sediment control programs; and 5) Such other elements as the director of the Department of Natural Resources deems appropriate in accordance with the objectives of the Erosion and Sediment Control Act.

The bill adds the authority to each district to petition the district court for a cease and desist order on an owner or operator if the district determines that the erosion is the result of an activity not normally associated with tillage, seeding, or cultivation of farm land and the immediate discontinuance of such activity is necessary to reduce or eliminate damage to neighboring property. This provision applies only after the refusal of the landowner to discontinue an activity causing the erosion and to establish a plan and schedule for eliminating excess erosion under the act. The order would be lifted once the excess erosion can be brought into conformance with the soil-loss tolerance level or sediment resulting from excess erosion is prevented from leaving the property.

The bill eliminates the exemption for owners and operators from the provision of compliance to the Erosion and Sediment Control Act if there is not at least ninety percent cost-sharing assistance for the installation of permanent soil and water conservation practices which are required in an approved farm unit conservation plan or are required to conform agricultural, horticultural, and silvicultural practices to the applicable soil-loss limit. In some cases landowners have requested their neighbors to file a complaint so ninety percent cost share has to be provided.

The bill would allow each district to provide any level of cost-share to the owner or operator to comply with the Act. However, the lack of available cost-sharing assistance would not offset the requirement that the owner and, if appropriate, the operator of such land comply with the terms of an approved plan of compliance or an administrative order.

### **LB 207 -- Change provisions relating to civil penalties under the Nebraska Chemigation Act. Schilz.**

Governor Ricketts signed LB 207 into law on March 18, 2015. The Legislature gave final approval to the bill on March 12<sup>th</sup> by a 44-0-5 vote. The bill amends the Chemigation statutes to mirror the civil penalty language in the Nebraska Groundwater Management Act of a civil penalty of not less than \$1,000/day and not more than \$5,000 for each day a violation takes place. The bill also allows the district to recover the costs of the action should a civil penalty by awarded under the new section.

Chemigation is used to inject fertilizer or pesticides into the well discharge to apply the product with the irrigation water on the field. Proper training and safety equipment is required to prevent the chemicals from back-flowing into the groundwater if the system fails.

The NARD had worked with Nebraska Farm Bureau Federation on an amendment to the bill to address concerns about first time violators which became the Committee Amendment AM 194, which was adopted on General File on a 35-0-14 vote. The amendment limits the fines in the bill to \$1,000/day per site for the first offense. For subsequent violations, the penalty range remains \$1,000 to \$5,000 each day, and at each site, where a violation occurs. The Nebraska Farm Bureau Federation testified in support of the bill with the compromise amendment.

There are very few violators under the Chemigation program. However, there are a few across the state that chemigate without permits and proper equipment because the fine is cheaper than the cost of the equipment. Under current law fines assessed by the courts are \$100 total.

### **LB 310 – Change provisions of the Niobrara Scenic River Act. Davis.**

Governor Ricketts signed LB 310 into law on May 26<sup>th</sup>. The Legislature gave final approval to LB 310 on May 20<sup>th</sup> by a 49-0 vote. The bill makes several changes to the Niobrara Scenic River Council. The changes have been worked on over the interim by the council and Senators Larson and Davis.

First, the bill requires that the representatives from the four County Boards (Brown, Cherry, Keya Paha and Rock) be County Commissioners and not a representative of the County Board.

Second, the bill requires that the regional director for the National Park Service or his or her designee and the regional director for the United States Fish and Wildlife Service or his or designee are the representatives and eliminates the Governor appointment of these two seats.

Third, the bill requires that before the federal representative can vote on matters before the council they have to notify the council and the Governor in writing that they plan to change from non-voting to voting members.

Fourth, the bill eliminates the requirement that a council member may not participate or vote on any matter on which he or she participated or voted on as a member of a county board, county planning commission, or natural resources district board. Under current law, when the council member was present and could not vote, the member was not to be counted in attendance for purposes of determining whether quorum or vote requirements have been satisfied.

### **LB 413 -- Provide for the evaluation of permits issued to political subdivisions by the Department of Environmental Quality regarding water quality. Mello.**

The Legislature gave final approval to LB 413 on April 23, 2015 on a 45-0-4 vote. Governor Ricketts approved the bill on April 29, 2015. The bill, as amended, makes several changes to the Department of Environmental Quality permit requirements for political subdivisions under the National Pollutant Discharge Elimination System.

First, when requested by the political subdivision, the bill allows the department to evaluate and make a determination of the necessity of specific permit terms and conditions to achieve water quality objectives. Such determination may affect the level of water treatment or pollution control, the length of time necessary for compliance, or both. Any political subdivision may request this evaluation and determination from the department in the issuance or reissuance of its permit.

Second, the evaluation will have to include, but is not limited to, consideration of the following factors in making its evaluation and determination:



- (a) The financial capability of a political subdivision to raise and secure necessary funding at a reasonable cost;
- (b) The affordability for ratepayers for implementation of pollution control options available to a political subdivision using the most appropriate methodology and measurements for the political subdivision in making such affordability determination;
- (c) The future growth potential and projections of a political subdivision and whether its infrastructure is sufficient for projected needs;
- (d) The overall costs and environmental benefits of control technologies;
- (e) Other environmental improvement investments made by a political subdivision; and
- (f) Any other relevant economic and social concerns or environmental conditions.

Finally, the bill allows the department to provide grants or an additional interest subsidy on loans for municipalities if the project contains a sustainable community feature, measurable energy use reductions, low impact development, or if there are any special assistance needs as determined in the act.

The Committee Amendment, AM 566, adopted on General File provides the department with more flexibility to determine the needs of the individual communities, rather than requiring the same evaluation for every community. The amendment also requires the political subdivision to submit an application fee and creates a fund into which such fees will be placed. The language further allows the department to create a tiered fee schedule in cases of financial hardship.

The accompanying appropriations bill, LB 413A, was also given final approval April 23, 2015 on a 43-2-4 vote. Governor Ricketts approved LB 413A on April 29, 2015. The bill provides \$79,181 from the Environmental Infrastructure Sustainability Fund for FY2015-16 and \$75,556 from the Environmental Infrastructure Sustainability Fund for FY2016-17 to the Department of Environmental Quality to aid in carrying out the provisions of the bill.

**LB 469e -- Provide powers and duties to the Department of Environmental Quality relating to the development of a state plan for regulating carbon dioxide emissions. Smith.**

Governor Ricketts signed LB 469e into law on May 27<sup>th</sup>. The Legislature gave final approval to LB 469e on May 21<sup>st</sup> by a 43-1-5 vote. The bill included the emergency clause so it became law immediately when the Governor signed the bill. The bill was Senator Lindstrom's Priority Bill for the session.

The purpose of the bill is to gather information about the real costs of implementing the Federal Clean Air rules from EPA. These include the cost and impact to the electrical power sector, electricity customers, employment, economic development, Nebraska's competitive position, and impacts to state and local government. It was reported at the hearing on the bill that over 20 states are considering similar legislation.

The Natural Resources Committee Amendment (AM 833) combined and revised LB 469 and LB 583, Sen. Schilz's state energy plan bill. On General File, senators adopted AM 833 on a 41-0-9 vote.

The bill with the amendment, adds the following new definitions and requirements related to the costs associated with implementing the Federal Clean Air Rules (LB 469):

- Defines electric generating units as a fossil fuel-fired electric generating plant.

- Defines federal emission guidelines as any final rules, regulations, guidelines, or other requirements adopted by the US EPA.
- A requirement that the Department of Environmental Quality (DEQ) provide a copy of a state plan for regulating carbon dioxide emissions to the State Energy Office (SEO) prior to submitting such plan to the U.S. Environmental Protection Agency (EPA) and prior to the deadline;
- If the deadline is extended, the DEQ is to provide the SEO with a copy of the plan prior to the extended deadline;
- The SEO is to prepare an assessment of the plan's effect on: - Electric generating capacity that could retire or change fuel; - Stranded investments; - Investments needed to offset electric generating capacity changes; - Risks to electric reliability; - Electricity prices; - Employment;
- The SEO is to finish the report within 30 days after receipt and submit it to the Legislature;
- The Legislature may vote on a nonbinding legislative resolution on the report's findings;
- The DEQ is to submit the final state plan to the Legislature;
- Clarify that nothing in this act is to prevent DEQ from complying with federal deadlines.

The amendment also requires the State Energy Office to develop an integrated and comprehensive strategic state energy plan, which is part of the original LB 583. The plan shall include short-term and long-term objectives that will ensure a secure, reliable, and resilient energy system for the state's residents and businesses; a cost-competitive energy supply and access to affordable energy; the promotion of sustainable economic growth, job creation, and economic development; and a means for the state's energy policy to adapt to changing circumstances.

The strategic state energy plan shall include, but not be limited to:

- (a) A comprehensive analysis of the state's energy profile, including all energy resources, end-use sectors, and supply and demand projections;
- (b) An analysis of other state energy plans and regional energy activities which identifies opportunities for streamlining and partnerships;
- (c) An identification of goals and recommendations related to:
  - The diversification of the state's energy portfolio in a way that balances the lowest practicable environmental cost with maximum economic benefits;
  - The encouragement of state and local government coordination and public-private partnerships for future economic and investment decisions;
  - The incorporation of new technologies and opportunities for energy diversification that will maximize Nebraska resources and support local economic development;
  - The interstate and intrastate promotion and marketing of the state's renewable energy resources;
  - A consistent method of working with and marketing to energy related businesses and developers;

- The advancement of transportation technologies, alternative fuels, and infrastructure;
- The development and enhancement of oil, natural gas, and electricity production and distribution;
- The development of a communications process between energy utilities and the State Energy Office for responding to and preparing for regulations having a statewide impact; and
- The development of a mechanism to measure the plan's progress.

On Select File, senators approved two other amendments. First, Senator Haar offered AM 1499 which eliminated a reference to “jobs lost” in when analyzing the impact of the carbon emission rules.

Secondly, senators adopted AM 1491 offered by Senator Schilz which incorporates provisions of LB 205 dealing with the regulation of meteorological towers. The amendment requires any meteorological tower located outside the boundaries of a city or village on rural or undeveloped property shall be marked, painted, or otherwise constructed to be visible in clear air during daylight hours from a distance of at least 2,000 feet. The amendment states that all towers will also: A ) Be painted in alternating band of aviation orange and white; B) Have one marker ball attached to the top one-third of each outside guide wire; and C) Have a seven-foot long safety sleeve on certain guide wires. Any tower erected prior to the enacting of this bill will have one year to come into compliance.

The accompanying appropriations bill, LB 469A, was given final approval on a 43-0-6 vote. The appropriations bill provides \$411,750 from the General Fund for FY2015-16 and \$218,472 from the General Fund for FY2016-17 to the State Energy Office to aid in carrying out the provisions of LB 469. Total expenditures for permanent and temporary salaries and per diems from funds appropriated by the bill shall not exceed \$54,754 for FY2015-16 or \$56,068 for FY2016-17.

### ***Governor Ricketts Approves Budget Bills***

Governor Ricketts approved the budget bills on May 20<sup>th</sup> without any vetoes. Senators gave final approval to the budget bills on May 14<sup>th</sup>. On Select File, they adopted the Appropriations Committee recommendations on the various bills in reaction to the Nebraska Economic Forecasting Board’s increase in projected revenues. The biggest change to the budget bills was to increase the property tax credit program from \$200 million to \$204 million per year.

There were no changes related to natural resources funding. The following four budget bills (LB’s 656, 657, 661 & 662) relate to natural resources funding. A chart showing the appropriations is on page 15 of this report.

### **LB 656 - Provide for deficit appropriations. Speaker Hadley at the request of the Governor.**

Senators gave final approval to the deficit appropriations bill, LB 656, on a 49-0 vote. The bill revises appropriations for the current fiscal year. The bill was approved by Governor Ricketts on May 20th.

The Committee Amendment, AM 828, was adopted on a 36-0-13 vote on General File. On Select File, senators added \$385,000 to replace a Nebraska Educational TV tower near Alliance that fell on April 9, 2015.

The General Fund revision total for FY14-15 amounts to \$7.2 million. This total is the net result of various adjustments including a \$6 million savings in Homestead Exemption reimbursement and \$32.4 million in excess appropriations in DHHS, but additional funding was added to the Department of Correctional Services for inmate health care and overall population related issues (\$14.75 million) and the Department of Health and Human Services (DHHS) to cover the cost of IV-E disallowances (\$17.2 million) and foster care reimbursement rates (\$7.5 million).

The adjustment for natural resources is to appropriate \$5.5 million to the Department of Administrative Services from the Republican River Compact Litigation Contingency Cash Fund to pay any court ordered payments pursuant to Kansas v. Nebraska.

**LB 657 - Appropriate funds for state government expenses. Speaker Hadley at the request of the Governor.**

Senators gave final approval to the mainline appropriations bill, LB 657, on a 49-0 vote. The bill provides appropriations for the next two fiscal years. The bill was approved by Governor Ricketts on May 20th.

On General File, the Committee Amendment (AM 829) was adopted on a 27-0-22 vote. On Select File, senators added \$4 million per year to the Property Tax Credit Fund to bring the total to \$204 million per year.

The major changes to the budget include: 1) Increasing State Aid to Schools by 40.1 million (4.3%) in FY 2015-16; 2) Increasing the Property Tax Credit Fund by \$64 Million per year to \$204 Million per year; 3) Increases the budget for the Department of Correctional Services by 11.2% (\$20.3 million) in FY15-16; and 4) A general 3% increase for the University of Nebraska, State Colleges, and Community Colleges.

The Appropriations Committee proposed budget results in an unobligated ending balance at the end of the FY16-17 Biennial Budget of which is \$49.0 million above the minimum 3% reserve. This \$49.0 million positive variance from the minimum reserve is an amount that could be available for A Bills or revenue legislation that the Legislature may wish to enact. In terms of the following biennium, the Committee proposed budget results in a projected ending balance that is \$47.2 million above the minimum 3% reserve.

This projected status is based on the February 2015 forecasts from the Nebraska Economic Forecasting Advisory Board (NEFAB) and the budget as proposed by the Appropriations Committee. The NEFAB met on April 30, 2015 to review existing forecasts and increased funding for the next three years. Had the Forecasting Board reduced revenue projections, senators would be facing cuts in the budget.

With revenue estimates at a \$4.4 billion level, a small percentage change, compounded over the three years being forecast, can cause relatively large dollar variations.

**REVENUE FORECASTS**

Revenue growth (adjusted for rate and base changes) is projected to be very close to the 33 year historical average of 5.0%. Revenue estimates for FY2014-15, FY2015-16, and FY2016-17 are the February 2015 forecasts from the NEFAB. Slight adjustments were made on Select File based upon the revised May 2015 forecast. Rate and base adjusted revenue growth implied by these current forecasts is 6.3% in FY14-15, 4.8% in FY15-16 and 4.9% in FY16-17. The two year average for FY16/FY17 is 4.9%.

**BUDGET GROWTH**

Budget growth in the Committee budget is 3.8% in FY16 and 2.4% in FY17 for a two year average of 3.1%. This two year average is virtually the same as the Governors recommendation, and would be the third lowest growth in the last 15 biennial budgets.

A chart comparing appropriation levels over the fiscal years is provided on page 15 of this report.

### **Notable Changes for the Department of Environmental Quality**

**Litter Reduction and Recycling Aid** – The appropriation includes the agency request to increase cash fund aid appropriation by \$400,000 in FY 2015-16 and FY 2016-17 to allow grants of available funds from the litter reduction and recycling grant program.

**Waste Reduction and Recycling Aid** – The appropriation includes the agency request to increase cash fund aid appropriations by \$1,000,000 in FY 2015-16 and FY 2016-17 to allow grants of available funds from the waste reduction and recycling grant program.

**Superfund Cost Share Aid** – The appropriation includes the agency request to increase cash fund aid appropriation by \$100,245 in FY 2015-16 and \$1,245,601 in FY 2016-17 to allow the agency to utilize previously paid cost share refunds recently made available to Nebraska in the form of refunds by the U.S. Environmental Protection Agency (EPA). Increased revenue is available because EPA is returning a portion of the state funding allocated for cleanup at the ASARCO site in Omaha and settlement money from the ASARCO bankruptcy. The funds in the cash fund are used to pay future 10% cost share aid to the EPA for current Superfund projects and completed Superfund projects turned over to the state for operations and maintenance management.

**Superfund Cost Share Operations** – The appropriation includes the agency request to increase cash fund operations appropriation by \$406,520 in FY 2015-16 and by \$823,448 in FY 2016-17. Increased revenue is available because EPA is returning a portion of the state funding allocated for cleanup at the ASARCO site in Omaha and settlement money from the ASARCO bankruptcy.

**Clean Water State Revolving Fund (SRF) Grants** – The appropriation includes the agency request to increase federal fund aid appropriation by \$1,800,000 in FY 2015-16 and FY 2016-17 to allow increased clean water SRF grants so that each year's five year federal grant is fully disbursed within two years of the award.

**Drinking Water State Revolving Fund (SRF) Grants** – The appropriation includes the agency request to increase federal fund aid appropriation by \$2,500,000 in FY 2015-16 to allow increased drinking water SRF grants so that each year's five year federal grant is fully disbursed within two years of the award.

**Drinking Water State Revolving Fund (SRF) Match** – The appropriation includes the agency request to increase cash fund aid appropriation by \$464,000 in FY 2016-17 to allow use of repayments to the drinking water SRF program to be used to provide part of the 20% state match required for new SRF grants, reducing the need for bond proceeds providing the 20% match.

### **Notable Changes for the Department of Natural Resources**

**Nebraska Resources Development Fund – Program Completion** – The appropriation includes \$6,187,825 for FY 15-16 and \$6,187,825 for FY 16-17. For each fiscal year, this breaks down to \$3,140,325 in General Fund plus \$3,047,500 in transfers of Cash Funds from a reduction in funding for the Water Sustainability Fund. There is also intent language that \$3,140,325 in General Funds be appropriated for the program through FY 2018-19 which would provide total funding for the program over four years of \$18,656,300 to finish out the six existing projects under the program. The unexpended General Fund balance is re-appropriated.

**Interrelated Water Management Plan Program – Program Completion** – The bill calls for the program to be discontinued as the funding for such has been transferred to the Department's general operating programs.

**Water Sustainability Fund – Appropriation Reduction** – The recommendation includes a reduction of \$3,000,000 cash fund authority in FY 2015-16 and FY 2016-17 for additional funding to the Nebraska Resources Development Fund. The program total is \$8,004,518 for FY 2015-16 and \$8,007,960 for FY 2016-

17. The unexpended Cash Fund balance is re-appropriated. There was \$21,000,000 cash fund authority appropriated to the Water Sustainability Fund program in FY 2014-15.

**Soil and Water Conservation – Reduced Commission Costs** – The appropriation includes a \$22,950 General Fund reduction in FY 2015-16 and FY 2016-17 to remove a one-time FY 2014-15 appropriation for the introduction of new commissioners to the Natural Resource Commission as provided by LB 1098A (2014).

**DNR Operations --** The Appropriations Committee also re-appropriated unexpended FY 14-15 funds for the Integrated Water Management studies, Water Resources Cash Fund, and Interstate Compacts and Decrees.

**LB 661 - Provide fund transfers, create a fund, and authorize certain transfers. Speaker Hadley on behalf of the Governor.**

Senators gave final approval to the cash transfers bill, LB 661, by a 40-9 vote. The bill transfers funds to different funds and programs over the next two years. The bill was approved by Governor Ricketts on May 20th.

On General File, senators approved the Committee Amendment (AM 831) by a 26-1-22 vote.

The issues that drew the most discussion was the transfer of \$202 million per fiscal year for FY 15-16 and FY 16-17 from the General Fund to the Property Tax Credit Cash Fund, and appropriating \$8 million to the Coordinating Commission for Postsecondary Education to develop, award and administer a contract to provide reduced-fee oral health services and oral health workforce development. An amendment was adopted in Select File to increase the funds for Property Tax Credits and to put the Coordinating Commission for Postsecondary Education in charge of the oral health program.

For natural resources funding, the bill transfers \$3.3 million per fiscal year for FY 15-16 and FY 16-17 from the General Fund to the Water Resources Cash Fund. The bill also transfers \$11 million each year from the General Fund to the Water Sustainability Fund. Following the mainline budget, the language also transfers \$3 million each year from the Water Sustainability Fund to the Nebraska Resources Development Fund.

In addition the bill creates the Republican River Compact Litigation Contingency Cash Fund. The language directs the Director of Administrative Services to use the fund to make payments in an amount up to \$5.5 million in accordance with any court order pursuant to *Kansas v. Nebraska*.

The bill also provides a transfer of \$1 million each year from the State Recreation Road Fund to the State Park Cash Revolving Fund. This money will be used by the Game and Parks Commission for state park system equipment replacement including such items as picnic tables, fire grates and grills, cabin furnishings, mowers, tractors and trucks.

**LB 662 - Provide for transfers from the Cash Reserve Fund. Speaker Hadley on behalf of the Governor.**

Senators gave final approval to the cash reserve transfers bill, LB 662, by a 42-7 vote. The bill provides cash reserve transfers for the next two fiscal years. The bill was approved by Governor Ricketts on May 20th.

On General File, senators adopted the Committee Amendment (AM 1246) on a 37-1-11 vote. On Select File, the only change was to add a \$7.8 million transfer in FY 15-16 to the Nebraska Capitol Construction Fund to upgrade the heating/cooling system. The language directs a transfer of \$5.5 million from the Cash Reserve Fund to the Republican River Compact Litigation Contingency Cash Fund on or before June 30, 2015. The bill also makes a transfer of \$25 million from the Cash Reserve Fund to the Nebraska Capitol Construction Fund for construction of the Global Center for Advanced Inter-professional Learning at the University of Nebraska and \$8 million from the Cash Reserve Fund to the Oral Health Training and Services Fund.

**Chart 1 – Appropriations Comparison by Agency and Program**

Agency and Programs	FY 14-15 Approp.	FY 15-16 Proposed	FY 15-16 Change	FY 16-17 Proposed	FY 16-17 Change
<b>Department of Natural Resources</b>					
<b>Operations Funding</b>					
General Fund	\$10,807,768	\$11,086,574	\$278,806	\$11,286,789	\$200,215
Cash Fund	\$7,243,497	\$7,260,462	\$16,965	\$7,273,803	\$13,341
Federal Fund	\$746,491	\$757,863	\$11,372	\$766,697	\$8,834
<b>Total Operations Funding</b>	<b>\$18,797,756</b>	<b>\$19,104,899</b>	<b>\$307,143</b>	<b>\$19,327,289</b>	<b>\$222,390</b>
<b>Small Watersheds</b>					
General Fund	\$0	\$0	\$0	\$0	\$0
Cash Fund	\$475,000	\$475,000	\$0	\$475,000	\$0
<b>Total</b>	<b>\$475,000</b>	<b>\$475,000</b>	<b>\$0</b>	<b>\$475,000</b>	<b>\$0</b>
<b>Soil and Water Conservation Fund</b>					
General Fund	\$2,318,036	\$2,318,036	\$0	\$2,318,036	\$0
Cash Fund	\$50,000	\$50,000	\$0	\$50,000	\$0
<b>Total</b>	<b>\$2,368,036</b>	<b>\$2,368,036</b>	<b>\$0</b>	<b>\$2,368,036</b>	<b>\$0</b>
<b>Water Well Decommissioning</b>					
General Fund	\$0	\$0	\$0	\$0	\$0
Cash Fund	\$100,000	\$100,000	\$0	\$100,000	\$0
<b>Total</b>	<b>\$100,000</b>	<b>\$100,000</b>	<b>\$0</b>	<b>\$100,000</b>	<b>\$0</b>
<b>Nebraska Resources Development Fund</b>					
General Fund	\$13,633,118	\$3,140,325	(\$10,492,793)	\$3,140,325	\$0
Cash Fund	\$47,500	\$3,047,500	\$3,000,000	\$3,047,500	\$0
<b>Total</b>	<b>\$13,680,618</b>	<b>\$6,187,825</b>	<b>(\$7,492,793)</b>	<b>\$6,187,825</b>	<b>\$0</b>
<b>Natural Resources Water Quality Fund</b>					
General Fund	\$0	\$0	\$0	\$0	\$0
Cash Fund	\$1,187,500	\$1,187,500	\$0	\$1,187,500	\$0
<b>Total</b>	<b>\$1,187,500</b>	<b>\$1,187,500</b>	<b>\$0</b>	<b>\$1,187,500</b>	<b>\$0</b>
<b>Water Sustainability Fund</b>					
General Fund	\$0	\$0	\$0	\$0	\$0
Cash Fund	\$21,000,000	\$8,004,518	(\$12,995,482)	\$8,007,960	\$3,442
<b>Total</b>	<b>\$21,000,000</b>	<b>\$8,004,518</b>	<b>(\$12,995,482)</b>	<b>\$8,007,960</b>	<b>\$3,442</b>
Water Resources Cash Fund	<b>\$3,300,000</b>	<b>\$3,300,000</b>	<b>\$0</b>	<b>\$3,300,000</b>	<b>\$0</b>
<b>Nebraska Environmental Trust Fund (NGPC)</b>					
Aid Funding	\$19,500,000	\$19,500,000	\$0	\$19,500,000	\$0
Operations Funding	\$560,433	\$573,433	\$13,000	\$583,245	\$9,812
<b>Total</b>	<b>\$20,060,433</b>	<b>\$20,073,433</b>	<b>\$13,000</b>	<b>\$20,078,830</b>	<b>\$9,812</b>
<b>Nebraska Department of Environmental Quality (Total Funding – Includes Federal \$)</b>	<b>\$67,790,742</b>	<b>\$74,533,781</b>	<b>\$6,743,039</b>	<b>\$74,474,347</b>	<b>(\$59,434)</b>

## **Section Two – Bills that have been Indefinitely Postponed or Withdrawn**

Bills indefinitely postponed in 2015 of interest to natural resources districts included the following:

### **LB 209 -- Adopt the Political Subdivisions Mandatory Mediation Act. Hilkemann.**

The Judiciary Committee indefinitely postponed LB 209 on January 30th. The bill proposed to adopt the Political Subdivisions Mandatory Mediation Act which would have required political subdivisions of the State of Nebraska to enter into mandatory mediation prior to litigation in any dispute between two or more political subdivisions. The issue that brought the bill to the Legislature is a dispute between the City of Omaha and Metropolitan Community College.

### **LB 282 -- Change provisions relating to closed sessions for public bodies. Baker.**

The Government Committee indefinitely postponed LB 282 on February 23rd. The bill had proposed to add a purpose for a public body to go into closed session. This addition would be for discussion of applicants, other than finalists, who have applied for employment by the public body.

Finalist was defined in the bill to mean any applicant (i) who reaches the final pool of applicants, numbering four or more, from which the successful applicant is to be selected, (ii) who is an original applicant when the final pool of applicants numbers less than four, or (iii) who is an original applicant and there are four or fewer original applicants.

### **LB 432 - Change provisions relating to access to and copying of public records. Baker (Bill Withdrawn)**

Senator Baker was successful in his motion to withdraw LB 432 from further consideration on January 29th. The bill was not drafted the way that Senator Baker had intended.

The bill would have eliminated the language limiting a citizen's right to access public records only during the hours the respective offices may be kept open for the ordinary transaction of business. Also, the bill would have required copies to be provided in print format if the requester did not have reasonable access to the Internet due to lack of computer, lack of Internet availability, or inability to use a computer or the Internet.

## **Section Three – Bills that will be carried over for the 2016 60-day Session**

### **LB 19 -- Change provisions relating to laboratory certification under the Nebraska Safe Drinking Water Safety Act. Krist.**

The Health & Human Services Committee accepted testimony on LB 164 on January 30<sup>th</sup>. The bill proposes to change procedures for the Director of Public Health to certify and enter into agreements with private laboratories. The bill eliminates the permissive language to enter into agreements with private labs and would make it mandatory.

After being certified by the director, the laboratories would be able to test water that is intended for human consumption, including the tests required by the director for compliance and monitoring purposes, under the Safe Drinking water Act. They would also be able to test samples which are not compliance samples under the Act.

The NARD submitted a letter of support to encourage the state to certify more private laboratories and certify for a broader scope of tests to assist individuals, municipalities and NRDs with logistics problems of sending samples to one location. For example, total coliform is a standard drinking water test that we encourage all



private well owners to perform on a regular basis. For testing purposes total coliform must be lab tested within 30 hours of sampling. Recent changes by the U.S. Postal service make it impossible for most individuals and NRDs to get the samples delivered to the state lab in Lincoln within this holding time, even if they are shipped "Priority - One Day Shipping". Having other testing lab options would be a great help.

The natural resources districts (NRDs) work diligently with state agencies, the University of Nebraska and the private sector on water quality monitoring and testing. Although we have established an extensive network of sampling sites, one of the problems we occasionally run into the logistics of transporting samples from all areas of the state to a central location for specific testing. Accompanying this are the quality control measures necessary to assure samples are not contaminated in any way.

Dr. Jerry King, Mid-West Laboratories, testified in support of the bill to expand certified testing to private laboratories so municipalities, natural resources districts and private individuals can get the samples tested in labs that may be closer to their community. Dr. King pointed out that while Mid-West Laboratories is located in Omaha, there are other privately owned labs in communities all across the state that could be certified to do the tests.

The Nebraska Department of Health and Human Resources opposed the bill because they believe the State of Nebraska Laboratory does a great job testing water samples.

The committee advanced the bill on March 6<sup>th</sup> and it remains on General File.

**LB 51 -- Require disclosures prior to joining a risk management pool under the Intergovernmental Risk Management Act. Scheer**

The Banking and Insurance Committee accepted testimony on LB 51 on February 24<sup>th</sup>. The bill would make several changes to the Risk Management Pool Act statutes for new membership agreements.

Before a public agency takes official action to become a member of a risk management pool, the pool shall provide each member of the governing body of the public agency with a separate written disclosure form containing the following information:

- (a) The mandatory term of membership in the pool, if any;
- (b) The name and home office location of any third party administrator providing claims or other insurance services for the pool;
- (c) A list of insurers providing excess insurance coverage or reinsurance coverage for the pool;
- (d) Applicable deductible levels and the maximum level of claims which the pool will self-insure;
- (e) The requirements for voluntary termination of membership in the pool; and
- (f) The following statements:
  - (i) Voluntary or involuntary termination of membership in a pool does not release a member from continued liability for all contractual obligations entered into with the pool on or before the date of termination;
  - (ii) All costs and expenses incurred by a pool may be assessed to its members without regard for proportionality, and members may be held jointly and severally liable for satisfying any financial obligations of the pool;

- (iii) A pool is not an insurance company and is not a member of the Nebraska Life and Health Insurance Guaranty Association or the Nebraska Property and Liability Insurance Guaranty Association; and
- (iv) A pool is issued a certificate of authority by the Department of Insurance.

In the event the governing body of a public agency takes official action to become a member of a risk management pool, the public agency's minutes on such action shall reflect that the information and be given to each member of the governing body of such public agency. A pool that violates this section may after notice and hearing and upon order of the Director of Insurance be subject to a monetary penalty of not more than one thousand dollars for each violation.

The bill remains in committee.

### **LB 86 -- Change number of districts and members of Game and Parks Commission. Davis**

The Natural Resources Committee accepted testimony on LB 86 on January 23<sup>rd</sup>. The bill adds one district representative to the Nebraska Game and Park Commission, increasing the total number from nine to ten. The new member would represent the counties of Box Butte, Cherry, Dawes, Sheridan, and Sioux.

Several organizations submitted letters of support, including the Upper Niobrara White NRD and Middle Niobrara NRD. There were two proponents who testified including the Nebraska Travel Association and a resident of Dawes County, both cited the benefits that could be added to the area by adding representation. There were two opponents of the bill, Kent Forney, Nebraska Game and Parks Commission member, and Jim Douglas Director of the Commission. Forney stated its funding limiting the Commission not underrepresentation, and noted that the area has an opportunity to lobby for the at large position on the commission. The Nebraska Sportsman Foundation provided neutral testimony.

The bill remains in committee.

### **LB 130 - Change provisions relating to the Water Sustainability Fund. Watermeier.**

The Natural Resources Committee accepted testimony on LB 130 on February 25<sup>th</sup>. The bill makes projects which funds have been allocated from the Nebraska Resources Development Fund (NRDF) as of March 30, 2014, eligible for funding from the Water Sustainability Fund. The bill would also require the Natural Resources Commission to develop and utilize a priority ranking system to give priority consideration to projects to which funds have been allocated from the NRDF that are still in need of state funding assistance.

Although the bill remains in committee, the Appropriations Committee included funding in LB 657. The final appropriation for the NRDF in includes \$6,187,825 for FY 15-16 and \$6,187,825 for FY 16-17. For each fiscal year, this breaks down to \$3,140,325 in General Fund plus \$3,047,500 in transfers of Cash Funds from a reduction in funding for the Water Sustainability Fund. There is also intent language that \$3,140,325 in General Funds be appropriated for the program through FY 2018-19 which would provide total funding for the program over four years of \$18,656,300 to finish out the six existing projects under the program.

Under the bill, the NRDF project sponsors would be required to file a statement of need to the department in lieu of the application required under the act. Upon receipt of an application or a statement of need, the director shall evaluate and investigate all aspects of the proposed program, project, or activity and the proposed schedule for development and completion of such program, project, or activity, determine eligibility for funding, and make appropriate recommendations to the commission.

John Winkler, Papio Missouri River NRD Manager, presented testimony for the Nebraska Association of Resources Districts in support of the bill. Testimony in support was also provided by Lyndon Vogt, Central Platte NRD Manager; Bob Hilske, Nemaha NRD Manager; Dave Clabaugh, Lower Big Blue NRD manager and

John Miyoshi, Lower Platte North NRD Manager. All five of these districts have NRDF projects that are complete or near completion but funding is still lacking from the state. Each manager went through the benefits of the projects with the committee.

There are six NRDF projects that have been approved but are waiting for final funding from the State of Nebraska. These six brings the total projects funded under NRDF to 71. The six projects are Lake Wanahoo in Lower Platte North NRD; Buck and Duck in Nemaha NRD, Lower Turkey Creek Watershed Project in the Lower Big Blue NRD; Pigeon Jones in the Papio Missouri River NRD; Upper Prairie/Silver/Moores Creek Watersheds in the Central Platte NRD and Sarpy County/Clear Creek in the Papio Missouri River NRD. All of these structures provide flood control, and environmental benefits to communities in the state. The Sarpy County/Clear Creek project provides flood protection to communities on the lower Platte River and protects the Lincoln and Omaha well fields. Several of these projects are completed and the remaining will be complete within the next three years.

A total obligation of approximately \$18.8 million remains after FY 2014-15 for these projects which takes into consideration the funding provided last year. Several of the districts have taken out loans to pay for the state's share and are awaiting repayment.

Vogt explained that the approval process from the NRDF is not a problem; rather it is waiting in line for funding. The program funding has gone down from \$3.7 million annually in 2002 to \$1.1 million in 2010. For the last four years the appropriation has been \$3.1 million annually. In the meantime, all costs associated with the projects have gone up significantly. The cost of moving dirt has gone from \$.75 /yard to over \$2.00/yard. Land prices have easily tripled. The lack of funding forced the NRC to impose its own moratorium on application to the NRDF in 2010.

The Governor's proposed biennial budget proposed \$3.14 million for FY 2015-16 and \$586,510 in FY 2016-17, totaling \$3.7 million over two years. The budget also calls for the end of the program at the end of FY 2016-17. This leaves a shortage for existing NRDF projects of about \$15.1 million.

Legislation passed in 2014 ended new applications for the NRDF. Legislative Bill 1098 created the Water Resources Sustainability Fund and an expanded the NRC membership. This revised NRC now oversees the new fund. Another bill passed last year, LB 906, prohibits applications being made to receive funds by grant or loan from the Nebraska Resource Development Fund after April 2014. The appropriations bills last year provided some additional funding to the NRDF to help pay off these projects. However, most of the new funding provided last year went into the new Water Sustainability Fund.

Senator Watermeier pointed out these projects have already gone through an application, review and approval process are now faced with having to go through a second approval process with a new fund, with different criteria and a different NRC to get the remaining funding obligation from the state. It essentially changes the rules of the game after the projects have started and the case of Lake Wanahoo – after it has been completed. If these approved projects have to do such, they should get some bonus points and an expedited approval process. This becomes the reason for the bill.

Currently there is \$21 million in the Water Sustainability Fund. The final budget includes an additional \$8 million each FY for FY's 2015-16 and 2016-17. Final rules are not complete yet for project applications from the new fund. These should be completed in FY 2015-16. The NRC then has to review and approve the applications. Thus, we may be close to the end of FY 2016-17 before an application could receive funding. At the minimum there would be \$29 million available.

Under LB 130, the NRDF project sponsors would be required to file a statement of need to the department in lieu of the application required under the act. Upon receipt of an application or a statement of need, the director shall evaluate and investigate all aspects of the proposed program, project, or activity and the proposed schedule

for development and completion of such program, project, or activity, determine eligibility for funding, and make appropriate recommendations to the commission.

The North Platte NRD opposed the bill. The Central Nebraska Public Power and Irrigation District submitted neutral testimony.

**LB 143 - Change provisions relating to operator training for underground storage tanks and provide funding. Schilz.**

The Natural Resources Committee accepted testimony on LB 143 on January 28<sup>th</sup>. The bill proposes to allow funds in the Petroleum Release Remedial Action Cash Fund to be used for reimbursement to a responsible person or his or her qualified trainer for the cost of compliance with the operator training requirements of the federal Energy Policy Act of 2005. The bill also authorizes the State Fire Marshal to establish training and experience requirements for trainers.

The committee has not taken action on the measure and it remains in committee.

**LB 174 – Redefine nonpoint source control systems and the Wastewater Treatment Facilities Construction Assistance Act. Schilz**

The Natural Resources Committee accepted testimony on LB 174 on January 22<sup>nd</sup>. The bill adds the following to the definition of the nonpoint control systems under the Wastewater Treatment Facilities Construction Assistance Act:

Projects which establish methods, measures, structures, or practices to protect, remediate, or enhance any waters of the state or aquatic habitat that are impacted by natural or anthropogenic nonpoint sources of pollution. Types of projects include, but are not limited to, projects which minimize or control runoff or leaching from activities in urban, construction, or rural areas, erosion of sediment, atmospheric deposition, or similar causes or hydro-modification projects.

The Nebraska Association of Resources Districts provided testimony in a neutral capacity noting that some NRDs have been talking with NDEQ about expanding the definition of qualifying projects so more projects could be undertaken that would address water quality problems. There were no opponents. No action has been reported on the bill and it remains in committee.

**LB 208 -- Provide an exemption to water storage reservoir permit requirements as prescribed. Schilz.**

The Natural Resources Committee accepted testimony on LB 208 on February 18<sup>th</sup>. The bill exempts dams with a capacity of 50 acre feet or less and built before 1973 from state regulation, except dam safety regulation, as long as they are not used for irrigation or modified to increase their storage capacity. Dams used for irrigation or modified to increase storage capacity would be subject to a permit.

This bill does not exempt any person from any requirements of the Safety of Dams and Reservoirs Act or section 46-233 (water rights for groundwater recharge) or 54-2425 (National Pollutant Discharge Elimination System permit).

John Thorburn, Tribasin NRD Manager, testified in support of the bill on behalf of his district and the Nebraska Association of Resources Districts. The issue came to light a couple of years ago when the Republican River Basin was placed in a Compact Call Year forcing water storage facilities to release water from structures for compact compliance.

Thorburn pointed out that several individuals received letters from the department that their facilities were not properly permitted and need to release the water. Most of these dams have been in place for at least fifty years.

When they were built, usually with federal government assistance, landowners were motivated to construct these reservoirs because they wanted to be good stewards of the land. Their purpose is to protect their land, and their downstream neighbors, from soil erosion, sedimentation and flash flooding. The dams also provided water for livestock.

An alternative to getting a permit would be to modify the dams so they store less than 15 acre-feet, install release structures or get a permit. Many of these options are not practical for the landowners and would eliminate the other benefits of the structures.

Mike Clements, Lower Republican NRD, also testified in support of the bill. Clements pointed out that these structures are located in livestock pastures and usually in isolated canyons. Because of the remote locations, they are hard to gain access to after a rain event to release the water. Further, because of the drought in 2012 and 2013 that prompted the Compact Call Year, most of these structures were very low or empty at the time. In that condition, there was basically no way to release the water other than to destroy the dam.

The Nebraska Farm Bureau Federation also submitted a letter of support for the measure. The Department of Natural Resources submitted a letter of opposition.

No committee action has been reported on the bill and it remains in committee.

#### **LB 344 -- Provide natural resources districts with the power to issue general obligation bonds. Kolowski.**

The Natural Resources Committee accepted testimony on LB 344 on March 6<sup>th</sup>. The bill authorizes natural resources districts to issue general obligation bonds for the purpose of financing all or part of the cost of non-revenue-producing water projects authorized by law. Issuance of such bonds shall be approved by two-thirds of the members of the board of directors of the district.

The bonds would be paid by existing property tax authority and other funds available to the district not pledged for another purpose.

Senator Kolowski pointed out that many of the flood control, stormwater and water augmentation projects are financed by the NRDs. Some of the NRDs finance the state-share of the projects until appropriations are made. The option would allow NRDs to have the option to take advantage of lower interest rates and also build the projects sooner. Much of the increased costs have come because of the delay in funding.

John Winkler, Pappio-Missouri River NRD Manager, testified in support of the bill. He pointed out under the limited bonding authority, currently authorized only to the PMRNRD, his district issued \$71 million in bonds to provide about \$150 million worth of flood and stormwater projects. The projects were also built in less than one-half the time if the districts had to wait for tax funds to come in to do a pay-as-you-go fashion. The bonding also lowered the levy for the district because they do not have to raise as much money every year as the cost can be distributed over a longer period of time.

John Miyoshi, Manager for the Lower Platte North NRD, testified in support of the bill on behalf of the Nebraska Association of Resources Districts. Miyoshi pointed out that the LPNNRD had to finance the state's share of the Sand Creek environmental restoration project, which was close to \$10 million. The loan was worked out with seven different banks. The loan is down to about \$1.4 million. The main point is that the NRDs are financing now and the bonding would provide a different tool to use to provide better terms.

The bill was also supported by the Nebraska Farmers Union. A letter of support was provided by the North Platte NRD.

The bill was opposed by the Nebraska Taxpayers for Freedom, the Pappio Valley Preservation Association, Scott Japp and Tyler Mohr. Their testimony was primarily against building flood control structures in the Pappio-

Missouri River NRD and financing them. A letter of opposition was also submitted by the Douglas County Board.

The committee did not report action on the bill and it remains in committee.

**LB 374 -- Direct transfers from the State Recreation Road Fund. Haar.**

The Appropriations Committee accepted testimony on LB 374 on March 12<sup>th</sup>. The bill requires that if the balance in the State Recreation Road Fund exceeds \$15,000,000 the State Treasurer shall transfer the amount greater than \$15,000,000 to the Game and Parks State Park Improvement and Maintenance Fund.

The State Recreation Road Fund receives revenue from a \$1.50 fee on each motor vehicle registered. Current statute has the State Treasurer transferring money in the fund to the Department of Roads on the first day of each month for construction and maintenance of dust-less surface roads designated as state recreation roads.

Although the bill remains in committee, the Appropriations Committee included language in the appropriations bills to allow for such transfer when the amount exceeds \$14 million. For illustration purposes, the Recreation Road Fund balance on January 31, 2015 was \$18,218,783. Assuming the transfers occur on the first day of each month, if LB 374 would have been in effect \$4,218,783 would have been transferred to the Game and Parks State Park Improvement and Maintenance Fund on February 1st. If no expenditures occurred during February then the estimated monthly revenue of \$318,000 would have been transferred on March 1. If there were expenditures in February they would have served to reduce or possibly eliminate the March transfer.

**LB 404 -- Provide for evidentiary hearings relating to certain water-use applications. Davis.**

The Natural Resources Committee accepted testimony on LB 404 on February 27<sup>th</sup>. The bill would allow a public water manager or user to have standing on water right applications before the department.

A public water manager or user is defined in the bill to mean a natural resources district, a municipality, an irrigation district, a public power and irrigation district, a public power district, a reclamation district, a mutual irrigation company, or a public water supplier.

The bill would require the Department of Natural Resources to publish a notice of a new application on their website for three consecutive weeks. Within sixty days after the last date the notice of an application described in this section appears on such web site, a public water manager or user may file with the department a written analysis that has been prepared by one or more qualified experts explaining why granting the application will (i) reduce or diminish the amount of water that will be available to the public water manager or user or its constituents and (ii) be contrary to the public interest.

The department shall not grant the application without first granting the public water manager or user a hearing to present evidence to demonstrate the positions set forth in the written analysis. The public water manager or user may waive the hearing. By waiving the hearing, the public water manager or user also waives the right to appeal.

For each application, the department shall conduct a single evidentiary hearing to adduce evidence from all of the parties who provided a written analysis.

Senator Davis noted in his opening that the bill is a result of an interim study working group over the summer that met several times in person and on conference calls to work out a solution to the question on standing. This included surface water irrigation districts, public power districts and NRDs. At the last conference call, there were no further issues brought forth to discuss.

Don Blankenau testified in support of the bill on behalf of the Nebraska Association of Resources Districts. Blankenau reminded the committee that years ago the Department of Natural Resources used to allow for public participation in water rights cases. The bill was drafted similar to the way the process used to work. Blankenau was legal counsel for the Department of Water Resources which later became the Department of Natural Resources.

Vanessa Silke, testifying in support for the Nebraska Water Resources Association, pointed out that Nebraska is the only state that does not allow for public participation on a water right. This bill would allow for public participation.

Mike Murphy presented testimony in support of the measure on behalf of the Middle Niobrara NRD. Murphy stressed that currently non-applicants are only able to offer comments to NDNR as to the public interest. Such comments are not evidence, and do not provide any right of review for a political subdivision whose duties and responsibilities are triggered by NDNR's actions.

Others testifying in support included the Nebraska Farmers Union and former Senator Norm Wallman.

Opponents included the Nebraska State Irrigation Association who claimed that the appeals process should be granted to all decisions made by the Department and NRDs, including Integrated Water Management Plans and permits for groundwater uses.

Brain Barel testified in opposition for the Nebraska Public Power District, outlining that none of their concerns were ever addressed by the working group over the summer.

When Senator Davis closed on the bill, he expressed disappointment with the opponents as they participated in the interim study process, never brought issues to the table, never provided any language for suggested solutions or objected to the final language until the hearing.

The committee has not reported any action on the measure and it remains in committee.

### **LB 461 - Change appropriations for the Nebraska Tree Recovery Program. Pansing Brooks.**

The Appropriations Committee accepted testimony on LB 461 on March 12<sup>th</sup>. The bill proposes to increase the annual fund for the Nebraska Tree Recovery grant program from \$250,000 per year to \$3 million per year. The purpose of the bill is to increase funding for the program to help combat the Emerald Ash Borer.

The grant program is operated by the Nebraska Forest Service to fund tree removal, disposal, and replacement costs. The Nebraska Community Forestry Council acts as an advisory body in administration of the program.

Proponents of the bill included several cities and communities and stressed the importance of the ash tree to Nebraska's communities. Supporters also noted that the ash borer is fatal to native ash trees because they have no defense against it. Within about two years of death, the ash trees become brittle and prone to breaking apart. A confirmed colony has been discovered within 100 miles of Omaha in Creston, Iowa, and infestations have been found in the Kansas City and Lawrence, Kansas, areas. Colorado also has a confirmed detection.

There were no opponents to the bill. Scott Josiah, Nebraska Forest Service, presented neutral testimony on the bill and explained how the program works and answered technical questions regarding the impact of Emerald Ash Borer. The committee did not report any action on the measure and no funds were added for the program in the mainline appropriations bill.

## **LB 462 - Change restrictions on campaigning by certain public officials and public employees. Seiler.**

The Government Committee accepted testimony on LB 462 on February 26<sup>th</sup>. The bill changes the definitions of campaign and campaigning to mean disseminating any communication which:

- (i) Refers to a ballot question, refers to a candidate by name, nickname, photograph, or drawing appearing in the communication, or makes the identity of the candidate otherwise apparent through an unambiguous reference or through an unambiguous reference to the candidate's status as a candidate; and
- (ii) Is aired, broadcast, cablecast, printed, or otherwise disseminated through the facilities of a television station, newspaper, periodical, radio station, cable television system, web site, satellite system, or other electronic means within or directed at the district of the office sought by the candidate or the area to be impacted by the ballot question, or
- (iii) Is broadcasted by any other means not described in subdivision.

Existing law prohibits public funds to be used to disseminate information about candidates or ballot questions.

The bill was supported by two testifiers from the Nebraska Rural Electric Association and one individual employed the Nebraska Power Review Board. The testimony focused on delivering information to the public about energy issues while using public resources and not identifying a candidate.

The issue that brought the bill to the legislature is a case that involves two public power district employees using public resources to campaign against a board candidate. In 2012, the Accountability and Disclosure Commission found that the two had violated the law and ordered each to pay a \$2,000 civil penalty. The two employees appealed to the Lincoln County District Court, which overturned the commission's findings. The case was appealed to the Nebraska Supreme Court and the Court sent it back to the lower court in the fall of 2014 with directions.

According to the ruling, the two authorized a series of radio advertisements in the month leading up to the 2010 general election that criticized wind energy. The advertisements were paid for with district funds. They did not mention the name of the candidate, a wind energy proponent who was running for a spot on the power district board at the time. But the advertisements attacked his key campaign issues and each of the three aired more than 70 times during October 2010. The candidate went on to win election, and was the only candidate running on wind energy issues.

The Nebraska Supreme Court said the lower court's definition of campaigning was too narrow and the lower court should determine whether the ads were run with the intent to influence public support for or against a particular candidate, ticket or measure. The Court instructed that determining intent requires looking at more than the content of the radio ads and must include all relevant factors, such as whether the radio ads took a position for or against the issues central to the candidate's campaign, the timing and frequency of the ads and how the ads compared to the district's prior public service announcements or ads. Final action from the lower court is still pending.

Opponents of the bill included the Don Nelson and Frank Daily for the Nebraska Accountability and Disclosure Commission. Both stated the bill tries to provide a different remedy that will impact all state and local subdivisions rather than waiting until the court rules on the case. Nelson also expressed concern authorizing public power entities to do more advertisements against alternative energy sources. He suggested that an interim study would be more appropriate on the issue.

Several committee members raised questions whether under the proposal if any information provided by the Nebraska Unicameral Update would have to end because it provides information about Senators, legislative issues and ballot questions and is paid for by the state. No action has been reported by the committee.



**LB 512 - Provide powers and duties to the Nebraska Oil and Gas Conservation Commission regarding certain wastewater and charge an assessment for certain costs. Stinner.**

The Natural Resources Committee accepted testimony on LB 512 on March 11<sup>th</sup>. The committee allowed for testimony via video-conference from Scottsbluff. The bill creates the Oil and Gas Regulatory Cost Recovery Cash Fund. The purpose of the fund is to recover the costs of monitoring and regulating oil and gas wastewater disposal in this state. The fund shall consist of a new assessment on wastewater related to the operation of oil and gas wells.

The bill gives the commission authority to monitor and regulate the disposal of wastewater generated from oil and gas well production, including wastewater generated from oil and gas well production in other states that is injected into commercial salt water injection wells in Nebraska.

The assessment would amount to twenty cents per barrel of wastewater disposed in Nebraska in a commercial salt water injection well, except for wastewater produced where taxes are already on the severance of oil and gas.

The purpose of the assessment is to offset the costs of monitoring and regulating oil and gas wastewater disposal, to offset the costs of damage to roads used for transporting the wastewater, and to provide additional transportation infrastructure funding necessary for the design and construction of additional roads and bridges

The bill requires the State Treasurer to credit fifty percent of the assessment to the Oil and Gas Regulatory Cost Recovery Cash Fund and fifty percent to the Highway Trust Fund.

There were twenty six proponents for the bill. Some of the key points stressed by proponents were about protecting groundwater and addressing road and infrastructure damage caused by the trucks that haul the water which is putting an increased strain on local infrastructure. Opponents of the bill raised concerns over water quality and asked for a moratorium on importing such production water until adequate safeguards can be put in place to protect groundwater.

T-Rex Oil Inc. of Broomfield, Colorado, is seeking a permit to operate the commercial disposal well on private property in the Nebraska Panhandle. A hearing on the permit application is scheduled March 24 before the Oil and Gas Commission in Sidney.

There were 2 testifiers in the neutral position. Steven Sibray explained there are several safeguards in place with the process and the risk of contamination to the aquifer is very minimal. Stan Belieu with the Nebraska Oil and Gas Commission noted that rules and regulations in place in Nebraska are as stringent as any state, and that commission diligently tests wells to ensure they are in compliance. He stated that this is the safest form of disposal and that he was not aware of any contamination events in Nebraska or in the country.

The committee did not report action on the proposal and it remains in committee.

**LB 537 - Appropriate funds relating to natural resources. Watermeier.**

The Appropriations Committee held a hearing on LB 537 on March 12<sup>th</sup>. The bill adds \$15,054,000 to the Natural Resources Development Fund (NRDF) to finish projects that have been approved as of March 30, 2014. This would pay off the remaining projects when added to the appropriations request of \$3,726,835 over the next biennium. The total for the biennium would be \$18,780,835.

Although the bill remains in committee, the Appropriations Committee included funding in LB 657. The final appropriation for the NRDF in includes \$6,187,825 for FY 15-16 and \$6,187,825 for FY 16-17. For each fiscal year, this breaks down to \$3,140,325 in General Fund plus \$3,047,500 in transfers of Cash Funds from a reduction in funding for the Water Sustainability Fund. There is also intent language that \$3,140,325 in General

Funds be appropriated for the program through FY 2018-19 which would provide total funding for the program over four years of \$18,656,300 to finish out the six existing projects under the program.

There are six NRDF projects that have been approved but are waiting for final funding from the State of Nebraska. These six brings the total projects funded under NRDF to 71. The six projects are Lake Wanahoo in Lower Platte North NRD; Buck and Duck in Nemaha NRD; Lower Turkey Creek Watershed Project in the Lower Big Blue NRD; Pigeon Jones in the Papio Missouri River NRD; Upper Prairie/Silver/Moores Creek Watersheds in the Central Platte NRD and Sarpy County/Clear Creek in the Papio Missouri River NRD. All of these structures provide flood control, and environmental benefits to communities in the state. The Sarpy County/Clear Creek project provides flood protection to communities on the lower Platte River and protects the Lincoln and Omaha well fields. Several of these projects are completed and the remaining will be completed within the next three years.

John Winkler, Papio Missouri River NRD Manager, presented testimony for the Nebraska Association of Resources Districts and the Papio-Missouri River NRD in support of the bill. Testimony in support was also provided by Lyndon Vogt, Central Platte NRD Manager; Dave Clabaugh, Lower Big Blue NRD manager and John Miyoshi, Lower Platte North NRD Manager. All of these districts have NRDF projects that are complete or near completion but funding is still lacking from the state. Each manager went through the benefits of the projects with the committee.

The bill was also supported by former Senator Tom Carlson, the Nebraska Water Resources Association, Nebraska Ethanol Association, Nebraska Sportsman Foundation and the North Platte NRD.

A total obligation of approximately \$18.8 million remains after FY 2014-15 for these projects which takes into consideration the funding provided last year. Several of the districts have taken out loans to pay for the state's share and are awaiting repayment.

Senator Carlson urged the committee to fully fund these projects through the General Fund and not start the practice of tapping into the Water Sustainability Fund to pay off other obligations.

The Governor's proposed biennial budget in LB 657 provides \$3.14 million for FY 2015-16 and \$586,510 in FY 2016-17, totaling \$3.7 million over two years. The budget also calls for the end of the program at the end of FY 2016-17. This leaves a shortage for existing NRDF projects of about \$15.1 million. Senator Watermeier offered an amendment at the hearing on LB 537 that would extend the funding for the NRDF for the next five years in the mainline budget and also add \$1 million per year for three years from either the Water Sustainability Fund or General Fund. This would take care of the obligations of the NRDF.

Legislative Bill 1098 passed in 2014 created the Water Resources Sustainability Fund and expanded the NRC membership. This revised NRC now oversees the new fund. Another bill passed last year, LB 906, prohibits applications being made to receive funds by grant or loan from the Nebraska Resource Development Fund after April 2014. The appropriations bills last year provided some additional funding to the NRDF to help pay off these projects. However, most of the new funding provided last year went into the new Water Sustainability Fund. Legislation passed in 2014 ended new applications for the NRDF. However, the Natural Resources Commission has had a moratorium on new applications to the fund since November 2010.

Senator Carlson pointed out these NRDF projects have already gone through an application, review and approval process and are now faced with the possibility of having to go through a second approval process with a new fund, with different criteria and a different NRC to get the remaining funding obligation from the state. It essentially changes the rules of the game after the projects have started, and in the case of Lake Wanahoo – after it has been completed.

Currently there is \$21 million in the Water Sustainability Fund. The final budget includes an additional \$8 million each FY for FY's 2015-16 and 2016-17. Final rules are not complete yet for project applications from

the new fund. These should be completed in FY 2015-16. The NRC then has to review and approve the applications. Thus, we may be close to the end of FY 2016-17 before an application could receive funding. At the minimum there would be \$29 million available.

**LB 585 - Change provisions relating to director qualifications and employment of personnel at the Department of Natural Resources. Schilz.**

The Natural Resources Committee accepted testimony on LB 585 on February 4th.

Current law limits the qualifications for the Director of Natural Resources to a registered professional engineer with five years' experience in water resources management. The bill expands the qualifications of the Director of Natural Resources to include having a doctorate degree in civil or hydraulic engineering, hydrology, or geology.

The bill also authorizes the Director of Natural Resources to employ a professional engineer registered under the Engineers and Architects Regulation Act as necessary to carry out the duties required of the director.

Jim Bendfeldt, NARD Vice-President, provided testimony in support of the bill. The requirement that the director be an engineer has its roots in the early 20th century, when the duties of the DNR were performed by the Department of Roads and Irrigation. At that time, the director not only supervised construction of roads across Nebraska but also approved construction of surface-water projects.

Bendfeldt pointed out the director of the Department of Roads, who is the state engineer and continues to be involved in significant engineering projects, need not hold an engineering degree. Not surprisingly, most other states have abandoned the engineering requirement for similar positions.

Dave Cookson testified in support of the measure on behalf of the Nebraska Appropriated Basin Coalition. The coalition is a group of NRDs in central and Western Nebraska that are working together on educational efforts on efficient water uses. Cookson is the former Deputy Attorney General who has defended Nebraska water laws and defended Nebraska in the Kansas v. Nebraska Republican River Compact case.

Cookson pointed out the primary role of the DNR director today is significantly different. Under Nebraska's new water laws, the director has to negotiate water use plans developed from input of water users that represent all users. While accomplishing that task, the director also must keep Nebraska in compliance with state laws and interstate compacts, which are legal in nature and not necessarily mathematical or irrigation related. While doing these tasks, the director also has to oversee the revamped Natural Resources Commission and administer state funds.

Bendfeldt relayed that a person that can balance of all those interests and tasks needs to have a skill set that may not include having an engineering degree. Open competition always brings out the best candidates.

A letter of support was submitted by the Upper Republican NRD.

The bill was opposed by the surface water users, notably, Central Nebraska Public Power and Irrigation District, Frenchman Cambridge Irrigation District and the Nebraska State Irrigation Association. Nebraska Farm Bureau Federation also opposed the bill.

Ann Bleed and Karen Amen, both from Lincoln, opposed the bill but spoke in favor of it if the criteria were changed to a registered geologist.

Nebraska Public Power District testified in a neutral capacity and asked for a new State Water Engineer position to be created in the Department of Natural Resources to administer water laws.

The Natural Resources Committee did not report action on the measure and it remains in committee.

**LB 622 – Change provisions relating to the Niobrara Scenic River Act. Larson.**

The Natural Resources Committee accepted testimony on LB 622 on February 12<sup>th</sup>, which expands the boundaries of the Niobrara Scenic River designation. With the change up to 6,000 more acres of private land would fall under the restrictions of the Scenic River designation.

The initial corridor designated a 1/4 mile stretch of land alongside the river for several miles and restrictions were placed on the landowners within that region. In 1996, an Advisory Commission worked with local residents and a 6 mile stretch was added to connect the 2 segments for a total of 76 miles of scenic river designation from Cornell Bridge to North of Newport. This is the current boundary that the council/state recognizes. The local counties then apply zoning restrictions on development to protect the scenic river.

The 2007 NPS boundary change would entail up to 6,000 more private landowner acres that would be controlled by federal oversight. The local concern of landowners and the public is that NPS will continue to try and regulate both the uses of the river and the land within the boundary, create new requirements through the use of a Superintendent's Compendium, develop a Commercial Use Authorization Permit program for less than a dozen river outfitters, and if necessary use of easements and fee title acquisition of property of up to 100 acres per mile within the boundary.

Mike Murphy, Manager of the Middle Niobrara NRD, spoke in opposition of the bill on behalf of the Nebraska Association of Resources Districts. Others testifying in opposition included Mike Tuerk, Chairman of the Niobrara Council; Tanya Storer, Cherry County Commissioner on behalf of Nebraska Farm Bureau Federation and Dean Jochem, Brown County Zoning Administrator. All pointed out this suggested change was reviewed by the Council working with Senator Davis and Larson over the interim but was rejected by the council as something to pursue. The Council has been successfully working with the National Forest Service under the 1996 map since 2007 and there has not been a need to change the boundaries in state law.

Supporters of the bill included Lance Cook, Rock County landowner; Nebraska Game and Parks Commission, Nebraska Sportsman's Foundation, Friends of the Niobrara and the Nebraska Sierra Club. All argued that the federal government would take away the funds from the Niobrara Scenic River Council if the additional acres were not restricted.

Tuerk, the Chair of the Council, reported that the National Park Service has made no such threat and has been cooperative with the local residents and counties on using the existing map. He further explained that the federal government only puts \$100,000 annually toward the protection efforts.

The bill also requires the members appointed by the Governor to the Niobrara Scenic River Council be approved by the Legislature.

The committee has not reported action on the bill and it remains in committee. There is an interim study resolution, LR 272, introduced by Senator Haar that calls for a study of the boundary issues.

**LB 646 -- Eliminate provisions for secret ballots for leadership under the Open Meetings Act. Kitner.**

The Government Committee accepted testimony on LB 646 on February 25<sup>th</sup>.

The bill eliminates the ability of public bodies to elect leadership by secret ballot. Current law allows for such if the total number of votes for each candidate is recorded in the minutes.

Senator Kitner made it clear at the hearing this would apply to all state and local office holders. This issue re-kindles that vote taken early in the session on the Legislature's own rules that allow for secret ballots for

leadership positions of the Legislature. Senator Kitner and others tried to change the rules to require such but lost in both the Rules Committee and on the floor in mid-January.

That proposed change was killed January 14<sup>th</sup> by the Rules Committee on a 5-0 vote and was offered again by Senator Kintner on the floor of the legislature the following day. The proposed change would have required a roll call vote to elect the speaker of the Legislature, chairperson of the Executive Board and leadership of the 14 standing committees. Senator Kintner's proposal was defeated by a 12-33 vote.

A couple of individuals spoke in favor of the bill. Several organizations and entities spoke against the bill or submitted letters pointing out leadership ballots should remain secret.

The committee did not report action on the measure and it remains in committee.

**LB 649 -- Require all votes taken by public officials to be a public record as prescribed. Kintner.**

The Legislature bracketed LB 649 until June 5, 2015 on April 10<sup>th</sup> by a 31-15 vote, ending further discussion on the issue for the session. The bill would require that all votes taken by public officials in the course of their public duties shall be considered public record.

On March 12<sup>th</sup>, The Government Committee advanced LB 649 to General File on a 5-3 vote with Committee Amendment AM 821. Senators Craighead, Groene, Larson, McCoy, and Murante voted for advancement of the bill. Senators Bloomfield, Garrett, and Hansen voted against advancement of the bill.

The Committee Amendment, AM 821, replaces the bill and would require that each vote cast by a public official for a leadership position in the body in which he or she serves shall be recorded and preserved as a public record, except that a procedure may be used to permit the vote to be cast secretly so long as the public officials vote is recorded after the tally.

Senator McCoy declared LB 649 as his personal Priority Bill for the session. The bill remains on General File.

**LB 664 -- Provide duties for the Nebraska Oil and Gas Conservation Commission relating to disposal of wastewater. Chambers.**

The Natural Resources Committee accepted testimony on LB 664 on May 27<sup>th</sup>.

The legislation would make the commission require any person applying for permission to dispose of wastewater, including wastewater generated from oil and gas well production in other states, by injection into commercial salt water injection wells in Nebraska to provide a listing of all chemicals in the wastewater. If the application is granted, the bill would require the commission to produce semiannual updates to the listing of all chemicals in the wastewater. The listings shall be public records.

The hearing included a video link so people in Scottsbluff could testify. Several individuals testified in support of the measure, including representatives from Bold Nebraska, Nebraska Sierra Club and Audubon Nebraska. Oil industry officials also testified in opposition, stressing that current regulation are in place to address the issues.

The bill was introduced late in the session in reaction to the Oil and Gas Commission approving an injection well last April in Sioux County despite public concerns. Senator Chambers introduced the bill, knowing that there would be no time this session to act on it, but wanted to provide a hearing to allow people to testify. No action was reported by the committee.

On a related note, two interim study resolutions were introduced on the issue at the end of the session. These include LR 154 by Senator Stinner and LR 247 by Senator Haar.

## **Section Four – Interim Study Resolutions**

- LR 154 - Interim study regarding the authority of the Nebraska Oil and Gas Conservation Commission and its role in decisions regarding the disposal of salt wastewater into dry wells. Stinner. Referred to the Natural Resources Committee.
- LR 247 - Interim study to examine the process of eliminating the Nebraska Oil and Gas Conservation Commission. Haar. Referred to the Natural Resources Committee.
- LR 215 - Interim study to examine implementation of the recommendations of a report produced as a result of LR 309, 2013, relating to the feasibility of creating a buffer strip program. Johnson. Referred to the Agriculture Committee.
- LR 216 - Interim study to examine implementation of recommendations of LR 309, 2013, investigating whether alternative models for compensating specialty or sensitive crop growers incurring herbicide drift are feasible. Johnson. Referred to the Agriculture Committee.
- LR 217 - Interim study to complete the work of LR 309, 2013, investigating ways to avoid and mitigate conflicts arising from herbicide and drift damage to sensitive crops. Johnson. Referred to the Agriculture Committee.
- LR 272 - Interim study to examine the Niobrara Council and its current statutory authority outlined in the Niobrara Scenic River Act. Haar. Referred to the Natural Resources Committee.
- LR 294 - Interim study to examine issues under the jurisdiction of the Government, Military and Veterans Affairs Committee. Murante. Referred to the Government Committee.
- LR 305 - Interim study to examine issues under the jurisdiction of the Appropriations Committee. Mello. Referred to the Appropriations Committee.
- LR 308 - Interim study to examine issues regarding the growth of Nebraska's agricultural-related economy. Haar. Referred to the Revenue Committee.
- LR 323 - Interim study to examine issues surrounding the N-CORPE augmentation project. Groene. Referred to the Natural Resources Committee.
- LR 333 - Interim study to examine methods to improve government efficiency. Watermeier. Referred to the Appropriations Committee.
- LR 339 - Interim study to examine the current statutory requirements governing the removal of roadside vegetation. Garrett. Referred to the Transportation Committee.

**A complete list of interim studies can be found at: <http://www.nebraskalegislature.gov/session/interim.php>**